



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 10/629,573      | 07/30/2003  | Jeffery James Cheetham |                     | 6462             |

25628 7590 05/13/2005

LAW OFFICES OF WILLIAM H. HOLT  
12311 HARBOR DRIVE  
WOODBIDGE, VA 22192

EXAMINER

KEASEL, ERIC S

ART UNIT PAPER NUMBER

3754

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                 |  |
|------------------------------|-------------------------------|---------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/629,573 | Applicant(s)<br>CHEETHAM ET AL. |  |
|                              | Examiner<br>Eric Keasel       | Art Unit<br>3754                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/05/2003</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because of the use of legal phraseology (e.g., "means for..." and "comprising"). Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Aoyagi et al. (US Patent Application Publication Number 2001/0053511).

Aoyagi et al. disclose a dental material container comprising a body (1) including a first chamber and a second chamber separated by a first wall member (2a), a dispensing member (4a) separated from the second chamber by a second wall member (1c), and a means (3) for applying pressure to dental material contained within the first chamber, wherein actuation of the means for applying pressure causes dental material within the first chamber to be expelled through the first

Art Unit: 3754

wall member and mix with dental material in the second chamber and further actuation of the means for applying pressure causes the mixed dental material to be expelled through the second wall member to the dispensing member; wherein the body has a first open end and a second end adjacent which is located the dispensing means, the first and second chambers being located within the body in use and the means for applying pressure comprising a plunger (3) arranged to be inserted into the first open end of the body; wherein the second wall member is provided adjacent the second end of the body and the dental material container includes a receptacle (2) arranged to be inserted into the open end of the body, the receptacle including the first wall member and having an open end arranged to receive the plunger such that the first chamber is defined between the plunger and the first wall member and the second chamber is defined between the first wall member and the second wall member; wherein the body of the dental material container and the receptacle are cylindrical and the first wall member is arranged transversely of the longitudinal axis of the cylindrical receptacle at an opposite end from the open end of the receptacle; wherein the receptacle includes a circumferential rib adjacent the open end thereof arranged to engage with a circumferential recess adjacent the first end of the body when the receptacle is inserted into the body; wherein the first wall member includes a central weakened portion; wherein the central weakened portion comprises a relatively thin portion of the first wall member; wherein the second wall member includes a central weakened portion; wherein the dispensing member includes a dispensing nozzle (4a) and a circumferential rib arranged to snap fit (see the embodiment of Fig. 4) with a circumferential groove adjacent the body of the dental material container; wherein the dispensing member is integrally formed with the body of the dental material container and includes a dispensing nozzle; wherein the

Art Unit: 3754

dispensing member includes a screw connection (see the embodiments of Figs. 1-3) on the body of the dental material container and a dispensing nozzle arranged to engage with the screw connection; wherein the dispensing nozzle is curved; wherein the second wall member is provided as a separate disc member arranged to be inserted into the body of the dental material container; and wherein the body of the dental material container includes a means for expelling air from within the body during use (see paragraph 0025).

5. Claims 1, 2, 6-9, 11, 12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kindt-Larsen et al. (US Patent Number 5,114,240).

Kindt-Larsen et al. disclose a material container comprising a body (18) including a first chamber (19) and a second chamber (11) separated by a first wall member (13, 14), a dispensing member (26) separated from the second chamber by a second wall member (22), and a means (15, 17) for applying pressure to material contained within the first chamber, wherein actuation of the means for applying pressure causes material within the first chamber to be expelled through the first wall member and mix with dental material in the second chamber and further actuation (see Figs. 5 and 6) of the means for applying pressure causes the mixed material to be expelled through the second wall member to the dispensing member; wherein the body has a first open end and a second end adjacent which is located the dispensing means, the first and second chambers being located within the body in use and the means for applying pressure comprising a plunger arranged to be inserted into the first open end of the body; wherein the first wall member includes a central weakened portion (14); wherein the central weakened portion comprises a relatively thin portion of the first wall member; wherein the second wall member includes a central weakened portion; wherein the central weakened portion comprises a relatively thin

Art Unit: 3754

portion of the second wall member; wherein the dispensing member is integrally formed by a screw connection on the body of the material container and a dispensing nozzle arranged to engage with the screw connection; wherein the second wall member is provided as a separate disc member arranged to be inserted into the body of the material container; wherein the body of the material container includes a means for expelling air from within the body during use; and wherein the means for expelling air comprises longitudinal grooves on inner surfaces of the body.

6. Claims 1, 2, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen (US Patent Number 2,754,590).

7. Cohen discloses a dental material container comprising a body (10) including a first chamber (17) and a second chamber (18) separated by a first wall member (21), a dispensing member (11) separated from the second chamber by a second wall member (22), and a means for applying pressure to dental material contained within the first chamber, wherein actuation of the means (26, 31) for applying pressure causes dental material within the first chamber to be expelled through the first wall member and mix with dental material in the second chamber and further actuation (See Fig. 3) of the means for applying pressure causes the mixed dental material to be expelled through the second wall member to the dispensing member; wherein the body has a first open end and a second end adjacent which is located the dispensing means, the first and second chambers being located within the body in use and the means for applying pressure comprising a plunger arranged to be inserted into the first open end of the body; wherein the dispensing member is integrally formed with the body of the dental material container and includes a dispensing nozzle; and wherein the dispensing nozzle is curved.

Art Unit: 3754

8. Claims 1-4, 6-11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Mukasa et al. (US Patent Number 6,386,872).

Mukasa et al. disclose a dental material container comprising a body (1) including a first chamber (2a) and a second chamber (1a) separated by a first wall member (2c), a dispensing member (4a) separated from the second chamber by a second wall member (1c), and a means (3) for applying pressure to dental material contained within the first chamber, wherein actuation (see Fig. 2) of the means for applying pressure causes dental material within the first chamber to be expelled through the first wall member and mix with dental material in the second chamber and further actuation (see Fig. 3) of the means for applying pressure causes the mixed dental material to be expelled through the second wall member to the dispensing member; wherein the body has a first open end and a second end adjacent which is located the dispensing means, the first and second chambers being located within the body in use and the means for applying pressure comprising a plunger arranged to be inserted into the first open end of the body; wherein the second wall member is provided adjacent the second end of the body and the dental material container includes a receptacle (2) arranged to be inserted into the open end of the body, the receptacle including the first wall member and having an open end arranged to receive the plunger such that the first chamber is defined between the plunger and the first wall member and the second chamber is defined between the first wall member and the second wall member; wherein the body of the dental material container and the receptacle are cylindrical and the first wall member is arranged transversely of the longitudinal axis of the cylindrical receptacle at an opposite end from the open end of the receptacle; wherein the first wall member includes a central weakened portion; wherein the central weakened portion comprises a relatively thin

Art Unit: 3754

portion (2e) of the first wall member; wherein the second wall member includes a central weakened portion; wherein the central weakened portion comprises a relatively thin portion (1e) of the second wall member; wherein the dispensing member includes a dispensing nozzle and a circumferential rib arranged to snap fit with a circumferential groove adjacent the body of the dental material container; wherein the dispensing member is integrally formed with the body of the dental material container and includes a dispensing nozzle; and wherein the dispensing nozzle is curved.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Green, Archer, Newby et al., Baumann, Abbey et al., Ty, Muhlbauer, Osanai et al., and Frick et al. disclose similar two-part container dispensers.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (571) 272-4929. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 10 MAY 2005

Eric Keasel  
Primary Examiner  
Art Unit 3754